

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

Renee Kay Martin, Parent, individually,)
and on behalf of TRL and BRW,)

Plaintiff,)

vs.)

Kelan Gourneau, in his individual and)
official capacities, et al.,)

Defendants.)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 3:22-cv-136

Plaintiff Renee Kay Martin, proceeding pro se, alleges claims arising from the shooting death of her son by law enforcement officers. Three motions to dismiss are pending. Federal Defendants United States of America, Federal Bureau of Investigation Agent Reed Mesman, in his official capacity, and Bureau of Indian Affairs BIA Officers Kelan Gourneau, Michael Slater, Evan Parisien, Earl Charbonneau, and Heather Baker, in their official capacities, assert the court lacks subject matter jurisdiction over Martin's claims against them. Doc. 58; Doc. 59. Defendants Agent Mesman and the BIA officers, in their individual capacities, argue Martin's claims against them should not be recognized under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). Doc. 63; Doc. 66. Finally, Defendants Trenton Gunville, Nathan Gustafson, Joseph Kaufman, William Poitra, Andrew Saari, Jr., Jayde Slater, and Mitchell Slater argue entitlement to Eleventh Amendment immunity regarding claims against them in their official capacities and contend Martin has not stated a plausible claim against them in their individual capacities. Doc. 68; Doc. 71. Martin opposed each of the three motions to dismiss. Doc. 76.

United States Magistrate Judge Alice R. Senechal issued a Report and Recommendation, recommending the Court grant each motion to dismiss and also addressed Martin's claim against Annette Laducer, a private citizen, who Martin named in her official and individual capacity. Doc. 89. Martin filed a timely objection to the Report and Recommendation. Doc. 90; Doc. 94.

The Court has spent considerable time reviewing this case and has carefully analyzed the Report and Recommendation, Martin's objection, all relevant case law, as well as the entire record, and finds the Report and Recommendation to be legally sound and persuasive. So, the Court **ADOPTS** the Report and Recommendation (Doc. 89) in its entirety. The motions to dismiss (Doc. 58; Doc. 63; Doc. 68) are **GRANTED**.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 16th day of April, 2024.

/s/ Peter D. Welte
Peter D. Welte, Chief Judge
United States District Court